

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-11942-GAO

LAWRENCE J. MESITE,  
Plaintiff

v.

DIANE HOUGH et al.,  
Defendants

ORDER  
December 15, 2006

O'TOOLE, D.J.

The defendants have moved to dismiss this action on the ground that the plaintiff has failed to comply with this court's July 13, 2006 order directing the plaintiff to produce medical records responsive to the defendants' document request within sixty days from the date of the order. The defendants assert that the medical records are relevant to the plaintiff's allegations that he suffered physical and/or psychological harm as a result of an allegedly unlawful arrest and detention in violation of the Fourth Amendment. While proof of medical injury or harm may be a part of a § 1983 claim, the plaintiff's stated claim does not necessarily require proof of medical harm. Dismissal of the entire action is not an appropriate sanction for failure to make discovery of materials that relate only to a part of the plaintiff's case. The defendants' motion to dismiss is therefore DENIED.

However, the plaintiff shall, by January 31, 2007, produce all medical records as requested by the defendant. If in default, he will be precluded from offering proof of any physical or psychological harm resulting from the alleged violation of his rights.

It is SO ORDERED.

December 15, 2006  
DATE

/s/ George A. O'Toole, Jr.  
DISTRICT JUDGE